

1 **A BILL**

2
3 To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic
4 Substances Control Act.

5
6 *Be it enacted by the Senate and House of Representatives of the United States of America in*
7 *Congress assembled,*

8 **SECTION 1. AMENDMENT TO THE FEDERAL, INSECTICIDE, FUNGICIDE, AND**
9 **RODENTICIDE ACT**

10 **(a) Amend § 2 of FIFRA as follows:**

11 Sec. 2. Definitions

12 * * *

13 (pp) POPs Convention. — The term “POPs Convention” means the Stockholm Convention on
14 Persistent Organic Pollutants to which the United States is a Party.

15 (qq) Annex A — The term “Annex A” means Annex A to the POPs Convention.

16 (rr) Annex B — The term “Annex B” means Annex B to the POPs Convention.

17 (ss) Annex C — The term “Annex C” means Annex C to the POPs Convention.

18 (tt) Annex D — The term “Annex D” means Annex D to the POPs Convention.

19 (uu) Annex E — The term “Annex E” means Annex E to the POPs Convention.

20 (vv) Annex F — The term “Annex F” means Annex F to the POPs Convention.

21 (ww) POPs Pesticide — The term “POPs Pesticide” means any pesticide or active ingredient
22 used in producing a pesticide that is listed on Annex A or Annex B for which any applicable
23 provision of the POPs Convention has entered into force for the United States pursuant to Article
24 22, paragraph 4 of the POPs Convention.

25 (xx) POPRC — The term “POPRC” means the Persistent Organic Pollutant Review Committee
26 established pursuant to Article 19, paragraph 6 of the POPs Convention.

(yy) COP — The term “COP” means the Conference of the Parties established by Article 19, paragraph 1 of the POPs Convention.

(zz) LRTAP POPs Protocol. — The term “LRTAP POPs Protocol” means the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants to which the United States is a Party.

(aaa) Annex I — The term “Annex I” means Annex I to the LRTAP POPs Protocol.

(bbb) Annex II — The term “Annex II” means Annex II to the LRTAP POPs Protocol.

(ccc) Annex III — The term “Annex III” means Annex III to the LRTAP POPs Protocol.

(ddd) LRTAP POPs Pesticide — The term “LRTAP POPs Pesticide” means any pesticide or active ingredient used in producing a pesticide that is listed on Annex I or Annex II for which any applicable provision of the LRTAP POPs Protocol has entered into force for the United States pursuant to Article 14, paragraph 3 of the LRTAP POPs Protocol.

(eee) Executive Body - The term “Executive Body” means the Executive Body established by Article 10 of the 1979 Convention on Long-Range Transboundary Air Pollution.

(fff) PIC Convention. — The term “PIC Convention” means the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade to which the United States is a Party.

(ggg) Designated National Authority - The term “designated national authority” means the authority or authorities that a government has designated in a notification to the PIC Convention Secretariat in accordance with the PIC Convention.

(b) Amend § 3 of FIFRA as follows:

Sec. 3. Registration of pesticides.

(b) Exemptions. – Any pesticide, other than a POPs Pesticide or a LRTAP POPs Pesticide (unless the POPs Pesticide or LRTAP POPs pesticide is permitted to be transferred pursuant to any applicable exemption in section 17(d)(2)(B) or 17(d)(3)(B) of this Act), which is not registered with the Administrator may be transferred if --

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide at the second establishment; or (2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) Amend § 12 of FIFRA as follows:

Sec. 12 Unlawful acts.

(a) In general. –

* * *

(2) It shall be unlawful for any person –

(R) to submit to the Administrator data known to be false in support of a registration; ~~or~~

(S) to violate any regulation issued under section 3(a) or 19; or

(T) to violate any provision of section 17 or any regulation promulgated thereunder.

(d) Amend § 17 of FIFRA as follows:

Sec. 17. Imports, Exports, and International Conventions

(e) Amend § 17(a) of FIFRA as follows:

(a) Pesticides and devices intended for export. --- Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act, provided that –

1 (1) ~~when~~ the pesticide or device or active ingredient used in producing a pesticide is prepared
2 or packed according to the specifications or directions of the foreign purchaser, except that
3 producers of such pesticides and devices and active ingredients used in producing pesticides
4 shall be subject to sections 2(p), 2(q)(1)(A), (C), (D), (E), (G), and (H), 2(q)(2)(A), (B), (C)(i)
5 and (iii), and (D), 7, and 8 of this Act; ~~and~~

6 (2) in the case of any pesticide other than a pesticide registered under section 3 or sold under
7 section 6(a)(1) of this Act, prior to export, the foreign purchaser has signed a statement
8 acknowledging that the purchaser understands that such pesticide is not registered for use in the
9 United States and cannot be sold in the United States under this Act. A copy of that statement
10 shall be transmitted to an appropriate official of the government of the importing country; and

11 (3) such export is in compliance with all of the applicable provisions of this section.

12 **(f) Amend § 17(c) of FIFRA as follows:**

13 (c) Importation of Pesticides and Devices.—The Secretary of the Treasury shall notify
14 Nothing in this subsection shall permit the import of any POPs Pesticide or LRTAP POPs
15 Pesticide that otherwise is prohibited under subsection (d) of this section.

16 **(g) Amend § 17(d) of FIFRA as follows:**

17 (d) International Conventions and Cooperation in International Efforts. —

18 (1) The Administrator shall, in cooperation with the Department of State and any
19 other appropriate Federal agency, participate and cooperate in any international
20 efforts to develop improved pesticide research and regulations; and should pursue
21 opportunities to participate in technical cooperation and capacity building
22 activities designed to support implementation of the POPs Convention, the

1 LRTAP POPs Protocol, and the PIC Convention.

2 (2) POPs Convention. —

3 (A) Prohibitions.—

4 Notwithstanding any other provision of law, except as provided in
5 paragraph (2)(B) and paragraph (4) of this subsection and consistent with
6 the POPs Convention, all sale, distribution, use, and production, or any
7 disposal operation that may lead to recovery, recycling, reclamation,
8 reuse, or alternative uses, of the following POPs Pesticides is prohibited:
9 Aldrin, Chlordane, Dieldrin, Endrin, Heptachlor, Hexachlorobenzene,
10 Mirex, Toxaphene, and DDT.

11 (B) Exemptions. —

12 To the extent consistent with the POPs Convention, the prohibitions in
13 subparagraph (A) shall not apply to:

14 (i) Any quantities of a POPs Pesticide occurring as unintentional trace
15 contaminants in products and articles.

16 (ii) Any quantities of a POPs Pesticide to be used for laboratory scale
17 research or as a reference standard.

18 (iii) Any quantities of a POPs Pesticide occurring as constituents of
19 articles, provided that (I) such articles were manufactured or already in
20 use before or on the date of entry into force of the obligation relevant to
21 that POPs Pesticide, and (II) the Administrator has met any applicable
22 requirements of the POPs Convention to notify the Secretariat of the POPs

Convention regarding such articles.

(iv) Any distribution for export of any quantities of a POPs Pesticide with an Annex A production or use specific exemption in effect or with an Annex B production or use specific exemption or acceptable purpose in effect, provided that the pesticide complies with one of the following export conditions:

(I) The pesticide is exported for the purpose of environmentally sound disposal as set forth in paragraph 1(d) of Article 6 of the POPs Convention; or

(II) The pesticide is exported to a Party to the POPs Convention that is permitted to use that pesticide under Annex A or Annex B; or

(III) The pesticide is exported to an importing foreign state that is not a party to the POPs Convention for that pesticide and that has provided an annual certification to the Administrator. This annual certification, consistent with Article 3, paragraph 2(b)(iii) of the POPs Convention, shall specify the intended use of the pesticide and state that, with respect to that pesticide, the importing foreign state that is not a party is committed to: (aa) protecting human health and the environment by taking necessary measures to minimize or prevent releases; (bb) complying with provisions of paragraph 1 of Article 6 of the POPs Convention; and (cc)

1 complying, when appropriate, with the provisions of paragraph 2
2 of Part II of Annex B. The Administrator shall submit a copy of
3 each annual certification to the Secretariat of the POPs Convention
4 within sixty days of receiving it.

5 Any determination by the Administrator that one or more of these
6 conditions are not met shall be made in cooperation with other interested
7 federal agencies.

8 (v) Any distribution for export only for the purpose of environmentally
9 sound disposal as set forth in paragraph 1(d) of Article 6 of the POPs
10 Convention, of a POPs Pesticide listed on Annex A for which no
11 production or use specific exemptions remain in effect for any Party to the
12 POPs Convention.

13 (vi) Any quantities of a POPs Pesticide imported for the purpose of
14 environmentally sound disposal as set forth in paragraph 1(d) of Article 6
15 of the POPs Convention.

16 Nothing in this subparagraph shall allow sale, distribution, use, and production, or
17 any disposal operation that may lead to recovery, recycling, reclamation, reuse, or
18 alternative uses, of any POPs Pesticide that is not otherwise allowed under any
19 other provision of law.

20 (C) Certification Statement Accompanying POPs Pesticides.

21 POPs Pesticides must be accompanied by a Certification Statement when sold or
22 distributed under subparagraph (B)(ii), (B)(iv), (B)(v), and/or (B)(vi) of this

1 paragraph. This Certification Statement must be prepared by the producer of the
2 pesticide. If there is no Certification Statement accompanying the pesticide, a
3 Certification Statement meeting the requirements of this subparagraph must be
4 prepared by the seller or distributor of the pesticide and must accompany the
5 pesticide when it is sold or distributed. Such Certification Statement shall include
6 the amount and identity of the pesticide, the basis for application of the
7 enumerated provision(s), and any other information the Administrator determines,
8 pursuant to notice and comment rulemaking, is necessary for effective
9 enforcement of this provision. Any person who distributes or sells the pesticide
10 must ensure that the Certification Statement accompanies the pesticide when it is
11 distributed or sold, and that the distribution or sale is consistent with the
12 Certification Statement. A copy of the Certification Statement shall be
13 maintained by the person preparing such Certification Statement for 3 years from
14 the date the Certification Statement is prepared. The Administrator may
15 promulgate such rules, as necessary, to facilitate implementation of this
16 subsection, to harmonize this certification requirement with other certification
17 requirements in this Act so as to avoid multiple certification statements
18 accompanying the same pesticide, and to ensure compliance with the POPs
19 Convention.

20 (D) Submission of Information.

21 (i) Upon a determination by the POPRC that a proposal for listing a pesticide on
22 Annex A, Annex B, or Annex C fulfills the screening criteria specified in Annex

1 D, the Administrator may publish a notice in the Federal Register identifying the
2 pesticide and summarizing the POPRC's determination. Within 60 days after
3 publication of any such Federal Register notice, any registrant of the pesticide or
4 other interested person that might support or object to any listing of the pesticide
5 on Annex A, Annex B, or Annex C may provide to the Administrator any
6 arguments or information associated with the risks or benefits of use of the
7 pesticide that, in the opinion of the registrant or interested person, support a
8 determination either that the determination by the POPRC is correct or is
9 incorrect or that some or all uses of the pesticide in the United States cause or do
10 not cause unreasonable adverse effects on the environment. Such information
11 may include information specified in Annex D or Annex E. Additional
12 information not available to the registrant or person within 60 days after
13 publication of the Federal Register notice, and arguments based upon such
14 additional information, may be submitted within 60 days of the acquisition by the
15 registrant or person of such additional information. Based upon information
16 received under this paragraph and on any other relevant information available to
17 the Administrator, the Administrator shall, within 180 days after publication of
18 the Federal Register notice, submit to the Secretary of State a report that contains,
19 at a minimum, information on the registered uses in the United States of the
20 pesticide and an assessment of the benefits and risks associated with the uses in
21 the United States of the pesticide.

22 (ii) Following a decision by the POPRC in Article 8.7 of the POPs Convention

1 that a pesticide shall proceed in the POPs Convention listing process, the
2 Administrator may publish a notice in the Federal Register identifying the
3 pesticide and summarizing the POPRC's decision. Within 60 days after
4 publication of any such Federal Register notice, any person interested in a
5 pesticide that is the subject of such notice may provide, consistent with the
6 information needs in Annex F, any information which the person believes is
7 relevant to the risk management evaluation in Article 8.7 of the POPs
8 Convention, a decision by the COP in Article 8.9 of the POPs Convention, or a
9 determination that some or all of the uses of the pesticide do or do not cause
10 unreasonable adverse effects on the environment. At this time, any such person
11 may also provide information on articles in use consisting of, containing, or
12 contaminated with the pesticide.

13 (iii) If a particular argument or piece of information is not submitted in a timely
14 manner following publication of a notice in accordance with subparagraphs (i) or
15 (ii), no person may raise such argument or submit such information in any
16 subsequent cancellation proceeding initiated by the Administrator under section 6
17 of this Act unless the person seeking to raise the argument or submit the
18 information demonstrates that the argument or information could not reasonably
19 have been made available to the Administrator earlier in accordance with the
20 times set forth in this subparagraph.

21 (3) LRTAP POPs Protocol. —

22 (A) Prohibitions.—

1 Notwithstanding any other provision of law, except as provided in paragraph
2 (3)(B) or paragraph (4) of this subsection and consistent with the LRTAP POPs
3 Protocol, all sale, distribution, use, and production of the following LRTAP POPs
4 Pesticides is prohibited: Aldrin, Chlordane, Dieldrin, Endrin, Heptachlor,
5 Hexachlorobenzene, Mirex, Toxaphene, DDT, Chlordecone,
6 Hexabromobiphenyl, and HCH.

7 (B) Exemptions. —

8 (i) To the extent consistent with the LRTAP POPs Protocol, the
9 prohibitions in subparagraph (A) shall not apply to:

10 (I) Quantities of a LRTAP POPs Pesticide to be used for
11 laboratory scale research or as a reference standard.

12 (II) Quantities of a LRTAP POPs Pesticide occurring as
13 contaminants in products.

14 (III) Quantities of a LRTAP POPs Pesticide in an article
15 manufactured or in use on or before the date of entry into force of
16 any obligation in the LRTAP POPs Protocol relevant to that
17 LRTAP POPs Pesticide.

18 (IV) Quantities of HCH so long as any production and use
19 complies with the restrictions and conditions specified for HCH in
20 Annex II of the LRTAP POPs Protocol.

21 (ii) The Administrator, with the concurrence of the Secretary of State, may
22 grant an exemption from the prohibitions in subparagraph A of this

1 paragraph that is consistent with exemptions allowed under Article 4,
2 paragraph 2 of the LRTAP POPs Protocol. In addition, any person may
3 petition the Administrator for an exemption from the prohibitions in
4 subparagraph A of this paragraph that is consistent with exemptions
5 allowed under Article 4, paragraph 2 of the LRTAP POPs Protocol. Any
6 such petition must, at a minimum, contain information related to each
7 finding, if any, that the Administrator must make according to the terms of
8 the LRTAP POPs Protocol before granting the exemption, and any
9 additional information, if any, that the Administrator is required to provide
10 to the Secretariat of the LRTAP POPs Protocol regarding a granted
11 exemption. The Administrator, with the concurrence of the Secretary of
12 State shall, grant the petition with conditions or limitations necessary to
13 meet any requirement of the LRTAP POPs Protocol or any other provision
14 of law, or deny the petition. The Administrator may grant an exemption
15 only to the extent that it is allowed for the United States under, and is
16 otherwise consistent with, the terms of the LRTAP POPs Protocol.
17 Notwithstanding any other provision of law, if the Administrator grants
18 such an exemption, the Administrator, within 90 days of granting the
19 exemption, shall provide the Secretariat of the LRTAP POPs Protocol
20 with the information specified in paragraph 3 of Article 4 of the LRTAP
21 POPs Protocol. If, after an exemption has been granted under this clause,
22 the exemption is no longer allowed for the United States under the

1 LRTAP POPs Protocol, it shall be unlawful for any person to continue to
2 distribute, sell, produce, or use, a LRTAP POPs Pesticide in the manner
3 allowed by the exemption.

4 Nothing in this subparagraph shall allow sale, distribution, use, or production of
5 any LRTAP POPs Pesticide that is not otherwise allowed under any other
6 provision of law.

7 (C) Certification Statement Accompanying LRTAP POPs Pesticides

8 LRTAP POPs Pesticides must be accompanied by a Certification Statement when
9 sold or distributed under subparagraph (B)(i)(I) and/or (B)(ii) of this paragraph.

10 This Certification Statement must be prepared by the producer of the pesticide. If
11 there is no Certification Statement accompanying the pesticide, a Certification
12 Statement meeting the requirements of this subparagraph must be prepared by the
13 seller or distributor of the pesticide and must accompany the pesticide when it is
14 distributed or sold. Such Certification Statement shall include the amount and
15 identity of the pesticide, the basis for application of the enumerated provision(s),
16 and any other information the Administrator determines, pursuant to notice and
17 comment rulemaking, is necessary for effective enforcement of this provision.

18 Any person who distributes or sells the pesticide must ensure that the
19 Certification Statement accompanies the pesticide when it is distributed or sold,
20 and that the distribution or sale is consistent with the Certification Statement. A
21 copy of the Certification Statement shall be maintained by the person preparing
22 such Certification Statement for 3 years from the date the Certification Statement

1 is prepared. The Administrator may promulgate such rules, as necessary, to
2 facilitate implementation of this provision, to harmonize this certification
3 requirement with other certification requirements in this Act so as to avoid
4 multiple certification statements accompanying the same chemical, and to ensure
5 compliance with the LRTAP POPs Protocol.

6 (D) Submission of Information.

7 (i) Upon a submission of a risk profile to the Executive Body in support
8 of a proposed amendment to list a pesticide on Annex I, Annex II, or
9 Annex III, the Administrator may publish a notice in the Federal Register
10 identifying the pesticide and summarizing the risk profile. Within 60 days
11 after publication of any such Federal Register notice, any registrant of the
12 pesticide or other interested person that might support or object to any
13 listing of the pesticide on Annex I, Annex II, or Annex III may provide to
14 the Administrator any arguments or information associated with the risks
15 or benefits of use of the pesticide that, in the opinion of the registrant or
16 other interested person, support a determination either that the risk profile
17 is correct or is incorrect or that some or all uses of the pesticide in the
18 United States cause or do not cause unreasonable adverse effects on the
19 environment. Additional information not available to the registrant or
20 person within 60 days after publication of the Federal Register notice, and
21 arguments based upon such additional information, may be submitted
22 within 60 days of the acquisition by the registrant or person of such

1 additional information. Based upon information received under this
2 paragraph and on any other relevant information available to the
3 Administrator, the Administrator shall, within 180 days after publication
4 of the Federal Register notice, submit to the Secretary of State a report
5 that contains, at a minimum, information on the registered uses in the
6 United States of the pesticide and an assessment of the benefits and risks
7 associated with the uses in the United States of the pesticide.

8 (ii) If a particular argument or piece of information is not submitted in
9 a timely manner following publication of a notice in accordance with
10 subparagraph (i), no person may raise such argument or submit such
11 information in any subsequent cancellation proceeding initiated by the
12 Administrator under section 6 of this Act unless the person seeking to
13 raise the argument or submit the information demonstrates that the
14 argument or information could not reasonably have been made available
15 to the Administrator earlier in accordance with the times set forth in this
16 subparagraph.

17 (4) Harmonization of Paragraphs (2) and (3). —

18 If a pesticide is both a POPs Pesticide and a LRTAP POPs Pesticide, the
19 provisions in both paragraph (2) and paragraph (3) of this subsection shall apply
20 to that pesticide. In the case of a conflict between provisions in paragraph (2) and
21 paragraph (3) for that pesticide, the more stringent provision shall govern. In any
22 case, these provisions shall be interpreted in a manner such that the United States

1 is in compliance with both the POPs Convention and the LRTAP POPs Protocol
2 for that pesticide.

3 (5) Notice and record of prohibitions, exemptions, and other information. –

4 The Administrator, in cooperation with the Secretary of State, shall publish in the
5 Federal Register timely notice regarding (1) the POPs Pesticides subject to the
6 prohibitions in this section, any exemptions from the prohibitions allowed under
7 this section, including any disallowances for any exemptions, and a list of
8 importing foreign states that are not parties to the POPs Convention from which it
9 has received annual certifications pursuant to section 17(d)(2)(B)(v)(III) of this
10 Act; and (2) the LRTAP POPs Pesticides subject to the prohibitions in this section
11 and any exemptions from the prohibitions allowed under this section, including
12 any disallowances for any exemptions. The Administrator may include in this
13 notice any other information that the Administrator deems necessary for ensuring
14 adequate notice of the requirements of this section, the POPs Convention, or the
15 LRTAP POPs Protocol. The Administrator shall maintain a record that integrates
16 the information in such notice with the information published under section 6(i)
17 of the Toxic Substance Control Act, update such record as needed, and make such
18 record publically available.

19 (6) PIC Convention.

20 (A) Requirements on exports.

21 (i) In the case of a pesticide or active ingredient used in producing
22 a pesticide identified by EPA in a notice issued under section

17(d)(6)(B)(iii), any person who distributes or sells for export such pesticide or active ingredient shall comply with export conditions or restrictions identified by EPA in such notice and certify that such pesticide or active ingredient complies with such conditions or restrictions. The certification statement shall include identification of such pesticide or active ingredient, the foreign state to which such pesticide or active ingredient is intended for export, the export conditions or restrictions identified by EPA in its notice, a description of how the pesticide or active ingredient complies with such conditions or restrictions, and any other information deemed necessary by the Administrator for effective enforcement of the export conditions or restrictions applicable to such pesticide or active ingredient. The certification statement shall be included among the shipping documents for such pesticide or active ingredient and shall accompany such pesticide or active ingredient. A copy of such certification shall be maintained for 3 years by any person required to certify compliance with such export conditions or restrictions. The Administrator may promulgate such rules, as necessary, to facilitate implementation of this subsection, to harmonize this certification requirement with other certification requirements in this Act so as to avoid multiple certification statements accompanying the same pesticide, and to

1 ensure compliance with the PIC Convention;

2 (ii) In the case of a pesticide or active ingredient used in producing
3 a pesticide that is determined by EPA to be banned or severely
4 restricted under section 17(d)(6)(B)(i), the exporter shall notify
5 EPA of its intent to export such pesticide or active ingredient.

6 Notice of intent to export must be received by EPA at least 15 days
7 prior to the first export (but no more than 30 days prior to the first
8 export) from the territory of the United States to each importing
9 foreign state occurring after EPA issues a notice of its
10 determination under section 17(d)(6)(B)(i) and, thereafter, prior to
11 the first such export to each importing foreign state in each
12 calendar year. Notwithstanding the foregoing, EPA may require
13 that notices of intent to export be received less than 15 days prior
14 to the first export and/or thereafter prior to the first export in each
15 calendar year if it determines, based on its experience with this
16 notification program, that it can operate the notification program
17 consistent with the PIC Convention with a shorter notice period.

18 Notices of intent to export shall include: the name and address of
19 the exporter; the name and address of the relevant designated
20 national authority of the United States; the name and address of the
21 relevant designated national authority of the importing foreign
22 state, where available; the name and address of the importer; the

1 name of the pesticide or active ingredient used in producing a
2 pesticide; the expected date of export; the foreseen uses as a
3 pesticide or active ingredient used in producing a pesticide, if
4 known, in the importing foreign state; any information on
5 precautionary measures to reduce exposure to, and emission of, the
6 pesticide or active ingredient used in producing a pesticide; the
7 concentration of the pesticide or active ingredient used in
8 producing a pesticide; and any other information otherwise
9 specified in Annex V of the PIC Convention; and
10 (iii) In the case of any pesticide or active ingredient used in
11 producing a pesticide that is the subject of a notice issued under
12 sections 17(d)(6)(B)(i) or 17(d)(6)(B)(iii) and that is distributed or
13 sold for export, such pesticide or active ingredient, shall, consistent
14 with the PIC Convention, bear labeling information on any
15 significant risks and/or hazards to human health or the
16 environment and be accompanied by shipping documents that
17 include any relevant safety data sheets on such pesticide or active
18 ingredient. In addition, in the case of any pesticide or active
19 ingredient used in producing a pesticide that is the subject of a
20 notice issued under section 17(d)(6)(B)(iii) and that is distributed
21 or sold for export, such pesticide or active ingredient must be
22 accompanied by shipping documents that bear, at a minimum, any

1 relevant harmonized system customs codes assigned by the World
2 Customs Organization.

3 (B) Notification requirements and exemptions.

4 (i) The Administrator shall, with the concurrence of the Secretary
5 of State, determine whether a pesticide or active ingredient used in
6 producing a pesticide is banned or severely restricted within the
7 United States as those terms are defined by the PIC Convention.
8 Notwithstanding any other provision of law, the Administrator
9 shall issue a notice to the Secretariat of the PIC Convention and to
10 the public of these determinations. Notice to the Secretariat shall
11 include the information specified in Annex I of the PIC
12 Convention and notice to the public shall include, at a minimum, a
13 summary of the same information.

14 (ii) Notwithstanding any other provision of law, the Administrator
15 shall, upon receipt, provide each notice of intent to export received
16 under section 17(d)(6)(A)(ii) to the designated national authority
17 of the importing foreign state. Where a designated national
18 authority has not been identified, the Administrator shall provide
19 such notice of intent to export to any other appropriate official of
20 the importing foreign state as identified by EPA.

21 (iii) The Administrator shall, with the concurrence of the
22 Secretary of State, issue a notice informing the public of pesticides

1 or active ingredients used in producing a pesticide that are listed
2 on Annex III of the PIC Convention and of any importing foreign
3 state's conditions or restrictions applicable to the import of such
4 pesticides or active ingredients consistent with the PIC
5 Convention. The conditions or restrictions identified by such
6 notice(s) constitute export conditions or restrictions for purposes of
7 section 17(d)(6)(A)(i). Such notice(s) shall be issued within 3
8 months of, and the conditions or restrictions made effective no
9 later than 6 months from, receipt of notice(s) from the Secretariat
10 of the PIC Convention who transmits Parties' import decisions or
11 their failure to provide import decisions.

12 (iv) The Administrator may issue a notice exempting any pesticide
13 or active ingredient used in producing a pesticide from
14 requirements of sections 17(d)(6)(A)(i), (ii), or (iii) or section
15 17(d)(6)(B) if the Administrator determines, with the concurrence
16 of the Secretary of State, that such exemption would be consistent
17 with the PIC Convention.

18 (v) To the extent appropriate, the Administrator shall integrate the
19 information contained in any notice issued under this paragraph
20 into the notice published pursuant to section 17(d)(5) of this Act
21 and section 6(i) of the Toxic Substances Control Act.

22 (C) Harmonization of Paragraphs (2) and (6) of this subsection. —

1 If distribution or sale for export of a pesticide or active ingredient used in
2 producing a pesticide is addressed or restricted under both paragraphs (2)
3 and (6) of this subsection, the provisions in both paragraph (2) and
4 paragraph (6) of this subsection shall apply to that pesticide or active
5 ingredient used in producing a pesticide. In the case of a conflict between
6 provisions in paragraph (2) and paragraph (6) for that pesticide or active
7 ingredient used in producing a pesticide, the more stringent provision shall
8 govern. In any case, these provisions shall be interpreted in a manner
9 such that the United States is in compliance with both the POPs
10 Convention and the PIC Convention for that pesticide or active ingredient
11 used in producing a pesticide.
12

SECTION 2: AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT

(a) Amend § 3 of TSCA as follows:

Sec. 3. Definitions

(15) The term “POPs Convention” means the Stockholm Convention on Persistent Organic Pollutants to which the United States is a Party.

(16) The term “Annex A” means Annex A to the POPs Convention.

(17) The term “Annex B” means Annex B to the POPs Convention.

(18) The term “Annex C” means Annex C to the POPs Convention.

(19) The term “Annex D” means Annex D to the POPs Convention.

(20) The term “Annex E” means Annex E to the POPs Convention.

(21) The term “Annex F” means Annex F to the POPs Convention.

(22) The term “POPs Chemical Substance or Mixture” means any chemical substance or mixture that is listed on Annex A or Annex B for which any applicable provision of the POPs Convention has entered into force for the United States pursuant to Article 22, paragraph 4 of the POPs Convention.

(23) The term “POPRC” means the Persistent Organic Pollutant Review Committee established pursuant to Article 19, paragraph 6 of the POPs Convention.

(24) The term “COP” means the Conference of the Parties established by Article 19, paragraph 1 of the POPs Convention.

(25) The term “LRTAP POPs Protocol” means the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants to which the United States is a Party.

1 (26) The term “Annex I” means Annex I to the LRTAP POPs Protocol.

2 (27) The term “Annex II” means Annex II to the LRTAP POPs Protocol.

3 (28) The term “Annex III” means Annex III to the LRTAP POPs Protocol.

4 (29) The term “LRTAP POPs Chemical Substance or Mixture” means any chemical substance or
5 mixture that is listed on Annex I or Annex II for which any applicable provision in the LRTAP
6 POPs Protocol has entered into force for the United States pursuant to Article 14, paragraph 3 of
7 the LRTAP POPs Protocol.

8 (30) The term “Executive Body” means the Executive Body established by Article X of the 1979
9 Convention on Long-Range Transboundary Air Pollution.

10 (31) The term “PIC Convention” means the Convention on the Prior Informed Consent
11 Procedure for Certain Hazardous Chemicals and Pesticides in International Trade to which the
12 United States is a Party.

13 (32) The term “designated national authority” means the authority or authorities that a
14 government has designated in a notification to the PIC Convention Secretariat in accordance
15 with the PIC Convention.

16 **(b) Amend § 6 of TSCA as follows:**

17 Sec. 6. Regulation of hazardous chemical substances and mixtures

18 (f) POPs Convention

19 (1) Prohibitions -

20 Notwithstanding any other provision of law, except as provided in subsection

21 (f)(2) and subsection (h) of this section and consistent with the POPs Convention,

22 all manufacture, processing, distribution in commerce, use, or disposal of the

1 following POPs Chemical Substances or Mixtures is prohibited: Aldrin,
2 Chlordane, Dieldrin, Endrin, Heptachlor, Hexachlorobenzene, Mirex, Toxaphene,
3 polychlorinated biphenyls (PCBs), and DDT.

4 (2) Exemptions —

5 To the extent consistent with the POPs Convention, the prohibitions in paragraph
6 (1) of this subsection shall not apply to:

7 (A) Any quantities of a POPs Chemical Substance or Mixture occurring as
8 unintentional trace contaminants in products and articles.

9 (B) Any quantities of a POPs Chemical Substance or Mixture to be used
10 for laboratory scale research or as a reference standard.

11 (C) Any quantities of a POPs Chemical Substance or Mixture occurring as
12 constituents of articles (except to PCB articles, which can continue to be
13 used in accordance with Annex A and Article 3, paragraph 6 of the POPs
14 Convention), provided that (i) the articles were manufactured or already in
15 use before or on the date of entry into force of the obligation relevant to
16 that chemical substance or mixture, and (ii) the Administrator has met any
17 applicable requirements of the POPs Convention to notify the Secretariat
18 of the POPs Convention regarding such articles.

19 (D) Any quantities of a POPs Chemical Substance or Mixture
20 manufactured and used as a closed-system site-limited intermediate,
21 provided that, prior to the initiation of such manufacture or use under the
22 POPs Convention, and every ten years thereafter,

1 (i) any person wishing to invoke the exemption has provided the
2 Administrator (I) information on the annual total quantities of the
3 POPs Chemical Substances or Mixture anticipated to be
4 manufactured or used or a reasonable estimate of such quantities,
5 and (II) information regarding the nature of the closed-system site-
6 limited process, including the amount of any non-transformed and
7 unintentional trace contamination of the POPs Chemical Substance
8 or Mixture starting material in the final product; and
9 (ii) notwithstanding any other provision of law, the Administrator
10 has determined, with the concurrence of the Secretary of State, that
11 the provided information is complete and sufficient and has
12 transmitted such information to the Secretariat of the POPs
13 Convention.

14 If, at the termination of any 10-year exemption period, the United States is
15 no longer allowed to take advantage of the closed-system site-limited
16 intermediate exemption for a POPs Chemical Substance or Mixture under
17 the POPs Convention, it will be unlawful for any person to continue to
18 manufacture or use the POPs Chemical Substance or Mixture as a closed-
19 system site limited intermediate.

20 (E) Any PCB materials as described in Part II of Annex A so long as such
21 PCB materials are handled in accordance with the POPs Convention and
22 in particular with Annex A.

1 (F) Any distribution in commerce for export of any POPs Chemical
2 Substance or Mixture with an Annex A production or use specific
3 exemption in effect or with an Annex B production or use specific
4 exemption or acceptable purpose in effect, provided that the chemical
5 substance or mixture complies with one of the following export
6 conditions:

7 (i) The chemical substance or mixture is exported for the purpose
8 of environmentally sound disposal as set forth in paragraph 1(d) of
9 Article 6 of the POPs Convention; or

10 (ii) The chemical substance or mixture is exported to a Party to
11 the POPs Convention that is permitted to use that chemical
12 substance or mixture under Annex A or Annex B; or

13 (iii) The chemical substance or mixture is exported to an
14 importing foreign state that is not a party to the POPs Convention
15 for that chemical substance or mixture and that has provided an
16 annual certification to the Administrator. This annual certification,
17 consistent with Article 3, paragraph 2(b)(iii) of the POPs
18 Convention, shall specify the intended use of the chemical
19 substance or mixture and state that, with respect to that chemical
20 substance or mixture, the importing foreign state that is not a party
21 is committed to: (I) protecting human health and the environment
22 by taking the necessary measures to minimize or prevent releases;

1 (II) complying with provisions of paragraph 1 of Article 6 of the
2 POPs Convention; and (III) complying, where appropriate, with
3 the provisions of paragraph 2 of Part II of Annex B. The
4 Administrator shall submit a copy of each annual certification to
5 the Secretariat of the POPs Convention within sixty days of
6 receiving it.

7 Any determination by the Administrator that one or more of these
8 conditions is not met shall be made in cooperation with other interested
9 federal agencies.

10 (G) Any distribution in commerce for export only for the purpose of
11 environmentally sound disposal as set forth in paragraph 1(d) of Article 6
12 of the POPs Convention, of a POPs Chemical Substance or Mixture listed
13 on Annex A for which no production or use specific exemptions remain in
14 effect for any Party to the POPs Convention.

15 (H) Any distribution in commerce of quantities of a POPs Chemical
16 Substance or Mixture imported for the purpose of environmentally sound
17 disposal as set forth in paragraph 1(d) of Article 6 of the POPs
18 Convention.

19 (I) Any quantities of a POPs Chemical Substance or Mixture, including
20 products or articles consisting of, containing or contaminated with a POPs
21 Chemical Substance or Mixture, that have become wastes and, upon
22 becoming wastes, are managed in a manner consistent with the Article 6

1 of the POPs Convention.

2 Nothing in this paragraph shall allow manufacture, processing, distribution in
3 commerce, use, or disposal of a POPs Chemical Substance or Mixture that is not
4 otherwise allowed under domestic law.

5 (3) Certification Statement Accompanying POPs Chemical Substances or Mixtures

6 POPs Chemical Substances or Mixtures must be accompanied by a Certification
7 Statement when distributed in commerce under subparagraph (2)(B), (2)(E),
8 (2)(F), (2)(G), (2)(H) and/or (2)(I) of this subsection. This Certification
9 Statement must be prepared by the manufacturer or processor of the substance or
10 mixture. If there is no Certification Statement accompanying the substance or
11 mixture, a Certification Statement meeting the requirements of this paragraph
12 must be prepared by the person who distributes the substance or mixture in
13 commerce and must accompany the substance or mixture when it is distributed in
14 commerce. Such Certification Statement shall include the amount and identity of
15 the chemical substance or mixture, the basis for application of the enumerated
16 provision(s), and any other information the Administrator determines, pursuant to
17 notice and comment rulemaking, is necessary for effective enforcement of this
18 provision. Any person who distributes in commerce the substance or mixture
19 must ensure that the Certification Statement accompanies the substance or
20 mixture when it is distributed in commerce, and that the distribution in commerce
21 is consistent with the Certification Statement. A copy of the Certification
22 Statement shall be maintained by the person preparing such Certification

1 Statement for 3 years from the date the Certification Statement is prepared. The
2 Administrator may promulgate such rules, as necessary, to facilitate
3 implementation of this provision, to harmonize this certification requirement with
4 other certification requirements in this Act so as to avoid multiple certification
5 statements accompanying the same chemical, and to ensure compliance with the
6 POPs Convention.

7 (g) LRTAP POPs Protocol —

8 (1) Prohibitions -

9 Notwithstanding any other provision of law, except as provided in subsection
10 (g)(2) or subsection (h) of this section and consistent with the LRTAP POPs
11 Protocol, all manufacture, processing, distribution in commerce and use of the
12 following LRTAP POPs Chemical Substances or Mixtures is prohibited: Aldrin,
13 Chlordane, Dieldrin, Endrin, Heptachlor, Hexachlorobenzene, Mirex, Toxaphene,
14 DDT, PCBs, Chlordecone, Hexabromobiphenyl, and HCH.

15 (2) Exemptions —

16 (A) To the extent consistent with the LRTAP POPs Protocol, the
17 manufacture, processing, distribution in commerce or use prohibitions in
18 paragraph (1) of this subsection shall not apply to:

19 (i) Quantities of a LRTAP POPs Chemical Substance or Mixture
20 to be used for laboratory scale research or as a reference standard.

21 (ii) Quantities of a LRTAP POPs Chemical Substance or Mixture
22 occurring as contaminants in products.

1 (iii) Quantities of a LRTAP POPs Chemical Substance or Mixture
2 in an article manufactured or in use on or before the entry into
3 force of any obligation in the LRTAP POPs Protocol relevant to
4 that LRTAP POPs Chemical Substance or Mixture.

5 (iv) Quantities of a LRTAP POPs Chemical Substance or Mixture
6 when occurring as site limited chemical intermediates in the
7 manufacture of one or more different substances and that are thus
8 chemically transformed.

9 (v) Quantities of HCH so long as any production and use complies
10 with the restrictions and conditions specified for HCH in Annex II
11 of the LRTAP POPs Protocol.

12 (vi) Quantities of a LRTAP POPs Chemical Substance or Mixture
13 that have become wastes and that, upon becoming wastes, are
14 disposed of in an environmentally sound manner in accordance
15 with paragraph 1(b) of the LRTAP POPs Protocol.

16 (vii) Any PCB materials as described in Annex II so long as such
17 PCB materials are handled in accordance with the LRTAP POPs
18 Protocol and in particular with Annex II.

19 (B) The Administrator, with the concurrence of the Secretary of State, may grant
20 an exemption from the prohibitions in paragraph (1) that is consistent with
21 exemptions allowed under Article 4, paragraph 2 of the LRTAP POPs Protocol.

22 In addition, any person may petition the Administrator for an exemption from the

1 prohibitions in paragraph (1) that is consistent with exemptions allowed under
2 Article 4, paragraph 2 of the LRTAP POPs. Any such petition must, at a
3 minimum, contain information related to each finding, if any, that the
4 Administrator must make according to the terms of the LRTAP POPs Protocol
5 before granting the exemption, and any additional information, if any, that the
6 Administrator is required to provide to the Secretariat of the LRTAP POPs
7 Protocol regarding a granted exemption. The Administrator, with the concurrence
8 of the Secretary of State, shall grant the petition with conditions or limitations
9 necessary to meet any requirement of the LRTAP POPs Protocol or any other
10 provision of law, or deny the petition. The Administrator may grant an exemption
11 only to the extent that it is allowed for the United States under, and is otherwise
12 consistent with, the terms of the LRTAP POPs Protocol. Notwithstanding any
13 other provision of law, if the Administrator grants such an exemption, the
14 Administrator, within 90 days of granting the exemption, shall provide the
15 Secretariat of the LRTAP POPs Protocol with the information specified in
16 paragraph 3 of Article 4 of the LRTAP POPs Protocol. If, after an exemption has
17 been granted under this subparagraph, the exemption is no longer allowed for the
18 United States under the LRTAP POPs Protocol, it shall be unlawful for any
19 person to continue to distribute, sell, produce, or use, a LRTAP POPs Chemical
20 Substance or Mixture in the manner allowed by the exemption.

21 Nothing in this subparagraph shall allow manufacture, processing, distribution in
22 commerce or use of a LRTAP POPs Chemical Substance or Mixture that is not otherwise

1 allowed under domestic law.

2 (3) Certification Statement Accompanying LRTAP POPs Chemical Substances or
3 Mixtures

4 LRTAP POPs Chemical Substances or Mixtures must be accompanied by a
5 Certification Statement when distributed in commerce under subparagraph (A)(i),
6 (A)(vi), (A)(vii) and/or (B) of this subsection. This Certification Statement must
7 be prepared by the manufacturer or processor of the substance or mixture. If there
8 is no Certification Statement accompanying the substance or mixture, a
9 Certification Statement meeting the requirements of this paragraph must be
10 prepared by any person who distributes the substance or mixture in commerce and
11 must accompany the substance or mixture when it is distributed in commerce.
12 Such Certification Statement shall include the amount and identity of the
13 chemical substance or mixture, the basis for application of the enumerated
14 provision(s), and any other information the Administrator determines, pursuant to
15 notice and comment rulemaking, is necessary for effective enforcement of this
16 provision. Any person who distributes in commerce the substance or mixture
17 must ensure that the Certification Statement accompanies the substance or
18 mixture when it is distributed in commerce, and that the distribution in commerce
19 is consistent with the Certification Statement. A copy of the Certification
20 Statement shall be maintained by the person preparing such Certification
21 Statement for 3 years from the date the Certification Statement is prepared. The
22 Administrator may promulgate such rules, as necessary, to facilitate

1 implementation of this provision, to harmonize this certification requirement with
2 other certification requirements in this Act so as to avoid multiple certification
3 statements accompanying the same chemical, and to ensure compliance with the
4 LRTAP POPs Protocol.

5 (h) harmonization of subsections (f) and (g) —

6 If a chemical substance or mixture is both a POPs Chemical Substance or Mixture
7 and a LRTAP POPs Chemical Substance or Mixture, the provisions in both
8 subsection (f) and subsection (g) of this section shall apply to that chemical
9 substance or mixture. In the case of conflict between the provisions in subsection
10 (f) and subsection (g) for that chemical substance or mixture, the more stringent
11 provision shall govern. In any case, these provisions shall be interpreted in a
12 manner such that the United States is in compliance with both the POPs
13 Convention and the LRTAP POPs Protocol for that chemical substance or
14 mixture.

15 (i) Notice and record of prohibitions, exemptions, and other Information —

16 The Administrator, in cooperation with the Secretary of State, shall publish in the
17 Federal Register timely notice regarding (1) the POPs Chemical Substances and
18 Mixtures subject to the prohibitions in this section, any exemptions from the
19 prohibitions allowed under this section, including disallowances for any
20 exemptions, and a list of importing foreign states that are not party to the POPs
21 Convention from which it has received annual certifications pursuant to section
22 6(f)(2)(G)(iii) of this chapter; and (2) LRTAP POPs Chemical Substances and

1 Mixtures subject to the prohibitions in this section, any exemptions from the
2 prohibitions allowed under this section, including disallowances for any
3 exemptions. The Administrator may include in this notice any other information
4 that the Administrator deems necessary for ensuring adequate notice of the
5 requirements of this section, the POPs Convention, or the LRTAP POPs Protocol.
6 The Administrator shall maintain a record that integrates the information in such
7 notice with any information published under section 17(e) of Federal Insecticide,
8 Fungicide and Rodenticide Act, update such record as needed, and make such
9 record publically available.

10 **(c) Amend Section 8 of TSCA to add the following:**

11 Sec. 8. Reporting and retention of information

12 * * *

13 (g) Information collection under the POPs Convention—

14 (1) Upon a determination by the POPRC that a proposal for listing a chemical
15 substance or mixture on Annex A, Annex B or Annex C meets the screening
16 criteria specified in Annex D, the Administrator may publish a notice in the
17 Federal Register identifying the chemical substance or mixture and summarizing
18 the POPRC's determination. Within 60 days after publication of any such Federal
19 Register notice, any person manufacturing, processing, or distributing in
20 commerce a chemical substance or mixture that is the subject of such notice shall,
21 or any other interested person may, provide to the Administrator the following
22 existing information, known to or reasonably ascertainable to such person, on the

1 chemical substance or mixture: (A) annual quantity manufactured and at which
2 locations; (B) uses; (C) annual quantity entering each environmental medium; and
3 (D) other information consistent with the information specified in Annex D,
4 paragraph 1, and Annex E, paragraphs (b) through (e) of the POPs Convention.
5 Any person manufacturing, processing, or distributing in commerce a chemical
6 substance or mixture that is the subject of such notice shall update such
7 information on an annual basis thereafter until such time as the COP decides not
8 to list the chemical substance or mixture on any Annex to the POPs Convention
9 or the Administrator, with the concurrence of the Secretary of State, determines
10 that such reporting is no longer necessary. In addition, within 60 days after
11 publication of the Federal Register notice, any interested person also may provide
12 the Administrator any arguments or information associated with the risks or
13 benefits of use of the chemical substance or mixture that, in the opinion of the
14 interested person, support a determination either that the determination by the
15 POPRC is correct or incorrect or that some or all manufacture, processing,
16 distribution in commerce, use, or disposal of the chemical substance or mixture in
17 the United States does or does not present an unreasonable risk of injury to health
18 or the environment. Based upon information received under this paragraph and
19 on any other relevant information available to the Administrator, the
20 Administrator shall, within 180 days after publication of the Federal Register
21 notice, submit to the Secretary of State a report that contains, at a minimum,
22 information on the production and uses in the United States of the chemical

1 substance or mixture and an assessment of the benefits and risks associated with
2 the production and uses in the United States of the chemical substance or mixture.

3 (2) Following a decision by the POPRC pursuant to Article 8.7 of the POPs
4 Convention that a chemical substance or mixture shall proceed in the POPs
5 Convention listing process, the Administrator may publish a notice in the Federal
6 Register identifying the chemical substance or mixture and summarizing the
7 POPRC's decision. Within 60 days after publication of any such Federal Register
8 notice, any person manufacturing, processing, or distributing in commerce a
9 chemical substance or mixture that is the subject of such notice shall, and any
10 other interested person may, provide, consistent with the information needs in
11 Annex F, any information which the person believes is relevant to the risk
12 management evaluation in Article 8.7 of the POPs Convention, a decision by the
13 COP in Article 8.9 of the POPs Convention, or a determination that some or all of
14 the manufacturing, processing, distribution in commerce, use, or disposal of the
15 chemical substance or mixture in the United States does or does not present an
16 unreasonable risk of injury to health or the environment. At this time, any person
17 manufacturing, processing, or distributing in commerce a chemical substance or
18 mixture that is the subject of such notice shall also provide information on articles
19 in use consisting of, containing, or contaminated with the chemical substance, or
20 mixture.

21 (3) Any information requirements imposed under this subsection shall not apply
22 to any person who has actual knowledge that the Administrator has been

adequately informed of any of the required information. If a particular argument or piece of information is not submitted in a timely manner following publication of a notice in accordance with this subsection, no person may raise such argument or submit such information to be part of the record of any subsequent rulemaking under section 6 of this chapter to regulate the chemical substance or mixture unless the person seeking to raise the argument or submit the information demonstrates that the argument or information could not reasonably have been made available to the Administrator earlier in accordance with the times set forth in this subsection.

(h) Information collection under the LRTAP POPs Protocol

(1) Upon a submission of a risk profile to the Executive Body in support of a proposed amendment to list a chemical substance or mixture in Annex I, Annex II, or Annex III, the Administrator may publish a notice in the Federal Register identifying the chemical substance or mixture and summarizing the risk profile. Within 60 days after publication of any such Federal Register notice, any person manufacturing, processing, or distributing in commerce a chemical substance or mixture that is the subject of such notice shall, and any other interested person may, provide to the Administrator, the following existing information, known to or reasonably ascertainable to such person, on the chemical substance or mixture: (A) potential for long-range transboundary atmospheric transport; (B) toxicity; (C) persistence, including biotic degradation processes and rates and degradation products; (D) bioaccumulation, including bioavailability; (E) annual quantity

1 manufactured and at which locations; (F) uses; (G) annual quantity entering each
2 environmental medium; (H) environmental monitoring data; (I) information on
3 alternatives to the existing uses for the chemical substance or mixture and the
4 alternatives' efficacy; (J) information on any known adverse environmental or
5 human health effects associated with the alternatives; (K) information on process
6 changes, control technologies, operating practices and other pollution prevention
7 techniques which can be used to reduce the emissions of the chemical substance
8 or mixture, and their applicability and effectiveness; and (L) information on non-
9 monetary costs and benefits as well as the quantifiable costs and benefits
10 associated with the use of these alternatives and/or techniques. Any person
11 manufacturing, processing, or distributing in commerce a chemical substance or
12 mixture that is the subject of such notice shall update such information on an
13 annual basis thereafter until such time as the Parties to the LRTAP POPs Protocol
14 decide not to list the chemical substance or mixture on any Annex to the LRTAP
15 POPs Protocol or the Administrator, with the concurrence of the Secretary of
16 State, determines that such reporting is no longer necessary. In addition, within
17 60 days after publication of the federal register notice, any interested person also
18 may provide the Administrator any arguments or information associated with the
19 risks or benefits of use of the chemical substance or mixture that, in the opinion of
20 the interested person, support a determination either that the risk profile is correct
21 or incorrect or that some or all manufacturing, processing, distribution in
22 commerce, use, or disposal of the chemical substance or mixture in the United

1 States does or does not present an unreasonable risk of injury to health or the
2 environment. Based upon information received under this paragraph and on any
3 other relevant information available to the Administrator, the Administrator shall,
4 within 180 days after publication of the Federal Register notice, submit to the
5 Secretary of State a report that contains, at a minimum, information on the
6 production and uses in the United States of the chemical substance or mixture and
7 an assessment of the benefits and risks associated with the production and uses in
8 the United States of the chemical substance or mixture.

9 (2) Any information requirements imposed under this subsection shall not apply
10 to any person who has actual knowledge that the Administrator has been
11 adequately informed of any of the information required by this subsection. If a
12 particular argument or piece of information is not submitted in a timely manner
13 following publication of a notice in accordance with this subsection, no person
14 may raise such argument or submit such information to be part of the record of
15 any subsequent rulemaking under section 6 of this chapter to regulate the
16 chemical substance or mixture unless the person seeking to raise the argument or
17 submit the information demonstrates that the information could not reasonably
18 have been made available to the Administrator earlier in accordance with the
19 times set forth in this subsection.

20 **(d) AMEND § 9 OF TSCA AS FOLLOWS:**

21 Sec. 9 Relationship to other federal laws; International cooperation

22 (e) International Cooperation

1 The Administrator shall, in cooperation with the Department of State and any other
2 appropriate Federal agency, participate and cooperate in any international efforts to
3 develop improved research and regulations on chemical substances and mixtures, and
4 should pursue opportunities to participate in technical cooperation and capacity building
5 activities designed to support implementation of the POPs Convention, the LRTAP POPs
6 Protocol, and the PIC Convention.

7 **(e) Amend § 12 of TSCA as follows:**

8 Sec. 12. Exports [TSCA § 12]

9 (a) In general

10 (1) Except as provided in paragraph (2) and subsections (b), (c), (d), (e), (f), and (g) of
11 this section, this chapter (other than sections 6(f), 6(g) and 8 of this title) shall not apply
12 to any chemical substance, mixture, or to an article containing a chemical substance or
13 mixture, if -

14 * * *

15 (c) No person may manufacture, process or distribute in commerce, for export from the United
16 States, any chemical substance or mixture identified by EPA in a notice issued under section
17 12(f)(3) if such chemical substance or mixture fails to comply with applicable export conditions
18 or restrictions as identified by EPA in such notice. Any person who manufactures, processes or
19 distributes in commerce, for export from the United States, a chemical substance or mixture that
20 is the subject of a notice issued under section 12(f)(3) shall certify that such chemical substance
21 or mixture complies with the applicable export conditions or restrictions. Such certification
22 statement shall include identification of such chemical substance or mixture manufactured,

1 processed or distributed in commerce, for export from the United States, the foreign state to
2 which such chemical substance or mixture is intended for export, the export conditions or
3 restrictions identified by EPA in its notice, a description of how the chemical substance or
4 mixture complies with such conditions or restrictions, and any other information deemed
5 necessary by the Administrator for effective enforcement of the export conditions or restrictions
6 applicable to such chemical substance or mixture. The certification statement shall be included
7 among the shipping documents for such chemical substance or mixture and shall accompany
8 such chemical substance or mixture. A copy of such certification shall be retained for 3 years by
9 any person required to certify compliance with such export conditions or restrictions. The
10 Administrator may promulgate such rules, as necessary, to facilitate implementation of this
11 subsection, to harmonize this certification requirement with other certification requirements in
12 this Act so as to avoid multiple certification statements accompanying the same chemical, and to
13 ensure compliance with the PIC Convention.

14 (d) If any person intends to export any chemical substance or mixture determined by EPA to be
15 banned or severely restricted under section 12(f)(1), such person shall notify EPA of its intent to
16 export such chemical substance or mixture. Notice of intent to export must be received by EPA
17 at least 15 days prior to the first export (but no earlier than 30 days prior to the first export) from
18 the territory of the United States to each importing foreign state occurring after EPA issues a
19 notice of its determination under section 12(f)(1) and, thereafter, prior to the first such export to
20 each importing foreign state in each calendar year. Notwithstanding the foregoing, EPA may
21 require that notices of intent to export be received less than 15 days prior to the first export
22 and/or thereafter prior to the first export in each calendar year if it determines, based on its

1 experience with this notification program, that it can operate the notification program consistent
2 with the PIC Convention with a shorter notice period. Notices of intent to export shall include:
3 the name and address of the exporter; the name and address of the relevant designated national
4 authority of the United States; the name and address of the relevant designated national authority
5 of the importing foreign state, where available; the name and address of the importer; the name
6 of the chemical substance or mixture; the expected date of export; the foreseen uses as a
7 chemical substance or mixture, if known, in the importing foreign state; any information on
8 precautionary measures to reduce exposure to, and emission of, the chemical substance or
9 mixture; the concentration of the chemical substance or mixture; and any other information
10 otherwise specified in Annex V of the PIC Convention.

11 (e) Any chemical substance or mixture that is the subject of a notice issued under sections
12 12(f)(1) or (f)(3) and that is manufactured, processed or distributed in commerce, for export from
13 the United States, shall, consistent with the provisions of the PIC Convention, bear labeling
14 information on any significant risks and/or hazards to human health or the environment and be
15 accompanied by shipping documents that include any relevant safety data sheets on the chemical
16 substance or mixture. In addition, any chemical substance or mixture that is the subject of a
17 notice issued under section 12(f)(3) and that is exported or intended for export, shall be
18 accompanied by shipping documents that, at a minimum, bear any relevant harmonized system
19 customs codes assigned by the World Customs Organization.

20 (f) Notice requirements and exemptions---(1) The Administrator shall, with the concurrence of
21 the Secretary of State, determine whether a chemical substance or mixture is banned or severely
22 restricted within the United States as those terms are defined by the PIC Convention.

1 Notwithstanding any other provision of law, the Administrator shall issue a notice to the
2 Secretariat of the PIC Convention and to the public of these determinations. Notice to the
3 Secretariat shall include the information specified in Annex I of the PIC Convention and notice
4 to the public shall include, at a minimum, a summary of the same information.

5 (2) Notwithstanding any other provision of law, the Administrator shall, upon receipt, provide
6 each notice of intent to export received under section 12(d) to the designated national authority
7 of the importing foreign state. Where a designated national authority has not been identified, the
8 Administrator shall provide such notice of intent to export to any other appropriate official of the
9 importing foreign state as identified by EPA.

10 (3) The Administrator shall, with the concurrence of the Secretary of State, issue a notice
11 informing the public of chemical substances or mixtures that are listed on Annex III of the PIC
12 Convention and of any importing foreign state's conditions or restrictions applicable to the
13 import of each chemical substance or mixture consistent with the PIC Convention. The
14 conditions or restrictions identified by the Administrator in such notice constitute export
15 conditions or restrictions for purposes of section 12(c). Such notice(s) shall be issued within 3
16 months of, and the conditions or restrictions made effective no later than 6 months from, receipt
17 of notice(s) from the Secretariat of the PIC Convention who transmits Parties' import decisions
18 or failure to provide import decisions.

19 (4) The Administrator may issue a notice exempting any chemical substance or mixture from
20 requirements of sections 12(c), (d), (e) or (f) if the Administrator determines, with the
21 concurrence of the Secretary of State, that such exemption would be consistent with the PIC
22 Convention.

(5) To the extent appropriate, the Administrator shall integrate the information contained in any notice issued under this section into the notice published pursuant to section 6(i) of this Act and sections 17(d)(5) and of the Federal Insecticide, Fungicide, and Rodenticide Act..

(g) Harmonization of section 6(f) and section 12.

If export of a chemical substance or mixture is addressed or restricted under both sections 6(f) and section 12 of this chapter, the provisions in both section 6(f) and section 12 of this chapter shall apply to that chemical substance or mixture. In the case of a conflict between provisions in section 6(f) and section 12 for that chemical substance or mixture, the more stringent provision shall govern. In any case, these provisions shall be interpreted in a manner such that the United States is in compliance with both the POPs Convention and the PIC Convention for that chemical substance or mixture.

(f) Amend § 15 of TSCA as follows:

Sec. 15 Prohibited acts—

It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule promulgated or order issued under section 4 of this title, (B) any requirement prescribed by section 5 or 6 of this title, (C) any rule promulgated or order issued under section 5 or 6 of this title, (D) any requirement prescribed by section 12 or 13 of this title, (E) any rule promulgated under section 12 or 13 of this title, or (F) any requirement of subchapter II of this chapter or any rule promulgated or order issued under subchapter II of this title;